

THE FAYETTE COUNTY PLANNING COMMISSION held a **Public Meeting/Workshop** on December 17, 2009, at 7:00 P.M. in the Fayette County Administrative Complex, 140 Stonewall Avenue West, Board of Commissioners Conference Room, Fayetteville, Georgia.

MEMBERS PRESENT: Douglas Powell, Chairman
Tim Thoms, Vice-Chairman
Bill Beckwith
Jim Graw
Al Gilbert

MEMBERS ABSENT: None

STAFF PRESENT: Pete Frisina, Director of Planning & Zoning
Robyn S. Wilson, P.C. Secretary/Zoning Coordinator

STAFF ABSENT: Dennis Dutton, Zoning Administrator

Welcome and Call to Order:

Chairman Powell called the Public Meeting/Workshop to order and introduced the Board Members and Staff.

* * * * *

Pete Frisina presented the proposed amendments as follows:

01/23/09 – BOC Retreat
07/16/09 – PC Workshop
12/17/09 – PC Wkshop

ARTICLE VIII. ADMINISTRATION, ENFORCEMENT, PENALTIES

- 8-1. Zoning Administrator. An administrative official designated as the Zoning Administrator shall administer and enforce the provisions herein.
- 8-2. Remedies. In case any building or structure is, or is proposed to be, erected, constructed, reconstructed, altered, converted or maintained, or any building, structure or land is, or is proposed to be, used in violation of any provision herein, the Zoning Administrator, or any other appropriate authority, may, in addition to other remedies provided by law and after due notice to the person in violation, issue a citation for the violation of this Ordinance. The citation for the alleged violation shall be heard in the State Court of Fayette County. The

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Court shall give the person a full opportunity to be heard and, if the defendant is adjudged to be guilty, the Court shall determine the extent and nature of the violation and the appropriate penalty. Where a violation has been determined to exist with respect to a building, structure or premises, the Court may, in addition to other remedies provided by law, require that public utility service be withheld therefrom until such time as the building, structure or premises are no longer in violation.

- 8-3. Stop Work Order. Whenever the Zoning Administrator or his or her designee determines that any building or structure is being constructed, altered, or modified, or any land is being used in violation of the terms herein, and in the Zoning Administrator's judgment, immediate cessation of such construction, alteration, or modification of buildings or structures or use of land is required to prevent harm to any person, firm, corporation, or governmental body, or to preserve the status quo, the Zoning Administrator may issue a Stop Work Order to those responsible. Appeals from the decision of the Zoning Administrator with regard to interpretation, administration, and enforcement shall be made to the Zoning Board of Appeals in accordance with the provisions of ~~Section 8-6~~ Article VIII.
- 8-4. Penalties. Any firm, person, or corporation that shall do or fail to do anything prohibited or required by this Ordinance shall, upon conviction, be guilty of a violation of this Ordinance and shall be fined no more than \$1,000.00 or imprisoned for no more than ~~sixty (60)~~ 60 days or both for each offense. Each day a violation continues shall be deemed as a separate offense.
- 8-5. Permits and Licenses Void When Issued in Conflict. Any permit or license issued in conflict with the provisions of this Ordinance shall be null and void.
- 8-6. Appeals. Appeals from the decision of the Zoning Administrator with regard to interpretation, administration, and enforcement shall be made to the Zoning Board of Appeals.

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ARTICLE IX. ZONING BOARD OF APPEALS

9-1. Membership.

- A. Membership and Appointments. The Fayette County Zoning Board of Appeals (the "Board") shall consist of five (5) members residing within the County and shall be appointed by the Board of Commissioners of Fayette County. None of the Board members shall hold any other public office, except that one (1) member may also be a member of the Planning Commission. Board members shall be removed by the Board of Commissioners for cause, upon written charges, and after public hearing. Any member of the Board shall be disqualified to act upon a matter before the Board with respect to property in which the member has an interest. It ~~shall~~ may be deemed cause for removal should any Board member fail, without proper reason, to attend three (3) consecutive meetings.
- B. Term of Office. The term of office for each member of the Board shall be for three (3) years; ~~however, in the appointment of the first Board, two (2) members shall be appointed for three (3) years; two (2) for two (2) years; and one (1) for one (1) year.~~ It is the intent of this section that their terms be staggered with no term limitation. Any vacancy in the membership shall be filled for the unexpired term in the same manner as the initial appointment. ~~If one appointee is a member of the Planning Commission, and he ceases to be a member of said Planning Commission during the term of his appointment to the Board, his membership shall terminate and the governing authority may name a member of the Planning Commission to fill the unexpired term of the original appointee.~~
- C. Compensation. The Board members shall receive compensation for their service as determined by the Board of Commissioners of Fayette County.

- 9-2. Rules and Procedures. The Board shall elect one (1) of its members as Chairman and another as Vice-Chairman, each serving for one (1) year, or until re-elected, or a successor is elected. The Vice-Chairman shall have the authority to act as Chairman in the Chairman's absence. The Board shall appoint a Secretary who shall be an employee of Fayette County. The Board shall have authority to adopt rules of procedure. Meetings of the Board shall may be held at the call of the Chairman. The Chairman may administer oaths and compel the attendance of witnesses by subpoena. The Board shall keep minutes of its proceedings, showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the Board and shall be public record. The decisions of the Board shall contain a statement of the subject matter being considered by the Board, the decisions of the Board, and the grounds for its decision reduced to written form. The full text shall be sent to the appellant. ~~No appeal~~ An application which seeks the same relief in regard to the same property shall not be accepted ~~or heard by the Board~~ for a period of ~~twelve (12)~~ 12 months following the date of the written decision from the ~~previous appeal~~ said application, except that this limitation shall not affect the right of the Board to grant a rehearing as provided in the rules of procedure as may be adopted by the Board.
- 9-3. Administrative Assistance. The Zoning Administrator shall provide such technical, administrative, and clerical assistance and office space as is required by the Board to carry out its function under the provisions of herein.
- 9-4. Public Hearing.
- A. Notice of Hearing Shall be Given. Before making its decision on an appeal, a request for a variance, or any other matter within the Board's purview, the Board shall hold a public hearing thereon. At least ~~fifteen (15)~~ 15 calendar days notice of the time and place of such hearing shall be sent to the appellant/petitioner by certified U.S. Mail to the appellant/petitioner's last known address. ~~Similar notice shall be provided to the Planning Commission.~~ Such notice shall contain the name of the appellant/ petitioner; the date, time, and place set for the hearing; and a brief statement of the nature of the hearing.
- B. Public Notice in Newspaper. The Board shall cause public notice of the hearing to be published in the legal organ of Fayette County at least ~~fifteen (15)~~ 15 calendar days but not more than 45 calendar days prior to the date of the public hearing.

C. Who May Appear. Any party may appear at the public hearing in person or by agent or attorney.

D. Board's Decision. The Board shall approve, deny, or table each application by a public vote. An action to table shall include justification of such action and a specific meeting date at which the application is to be reconsidered.

If there is not a full board present at the public hearing, the Petitioner may request to table the petition to the next Board public hearing, provided the Petitioner requests to table the agenda item prior to the presentation.

A new legal advertisement will not be required with an announcement to a specific meeting date if an application is tabled; however, the property will be reposted with new signage indicating the new public hearing dates.

~~D-E.~~ Time Limit on Board's Decision. The Board shall reach a decision following a public hearing within ~~thirty (30)~~ **45 calendar** days **or the application shall be deemed to be approved.** The decision of the Board shall be made by a public vote and shall not be final until the resolution of the decision has been duly adopted and approved by the Board.

9-5. Powers and Duties.

A. Appeals from Actions of the Zoning Administrator. The Board shall hear and decide upon appeals where it is alleged there is error in any order, requirement, decision, or determination made by the Zoning Administrator in the enforcement of these regulations.

1. Who May Appeal. Appeals to the Board may be taken by any person aggrieved or by an officer, department, **or** board ~~, or bureau of the governing authority~~ **Fayette County** affected by any decision of the Zoning Administrator. Such appeals, **specifying the grounds thereof** shall be filed **with the Planning & Zoning Department** no later than ~~thirty (30)~~ **30 calendar** days after the date of notification of the **Zoning Administrator's** decision appealed from by filing with Zoning Administrator and with the Board a notice of appeal specifying the grounds thereof. The Zoning Administrator shall forthwith transmit to the Board all the papers constituting the record upon which the action appealed from was taken.

2. Legal Proceedings Stayed. An appeal stays all legal proceedings in furtherance of the action appealed from, unless the Zoning Administrator certifies to the Board that by reason of facts stated in the certificate a stay would, in the Zoning Administrator's opinion, cause imminent peril to life and property. In such a case, proceedings shall not be stayed otherwise than by a restraining order from a court of competent jurisdiction.
 3. Extent of Board of Appeals Power. The Board may, in conformity with the provisions of these regulations, reverse or affirm the order, requirement, decision, or determination of the Zoning Administrator. The Board may direct the issuance of a permit. It shall be the duty of the Zoning Administrator to carry out the decisions of the Board.
- B. Request for a Variance. The Board may authorize, upon appeal in specific cases, a variance from the terms of these regulations as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of these regulations will, in an individual case, result in practical difficulty or unnecessary hardship, so that the spirit of these regulations shall be observed, public safety and welfare secured, and substantial justice done. However, a variance shall not be granted for a use of land, building, or structure that is prohibited in the zoning district at issue. A variance may be granted in an individual case upon a finding by the Board that the following exists:
1. There are extraordinary and exceptional conditions pertaining to the particular piece of property in question because of its size, shape or topography; and
 2. The application of these regulations to this particular piece of property would create a practical difficulty or unnecessary hardship; and
 3. Such conditions are peculiar to the particular piece of property involved; and
 4. Relief, if granted, would not cause substantial detriment to the public good or impair the purposes and intent of these regulations; provided, however, no variance may be granted for a use of land, building, or structure that is prohibited herein; and

5. A literal interpretation of this Ordinance would deprive the applicant of any

rights that others in the same zoning district are allowed; and

6. Provided that the Board may impose or require such additional restrictions and standards as may be necessary to protect the health and safety of workers and residents in the community, and to protect the value and use of property in the general neighborhoods; and provided that wherever the Board shall find, in the case of any permit granted pursuant to the provisions of these regulations, that any of the terms, conditions, or restrictions upon which such permit was granted are not being complied with, said Board shall rescind and revoke such permit after giving due notice to all parties concerned and granting full opportunity for a hearing. In exercising the above powers, the Board shall not consider any nonconforming use of neighboring lands, structures or buildings in the same zoning district, and no permitted use of lands, structures, or buildings in other zoning districts as grounds for the issuance of a variance.
- C. Request for Change of the Nonconforming Use of a Structure. The Board may authorize, upon appeal in specific cases, a change in the nonconforming use of a structure in accordance with the provisions of ~~Section 7-2.C~~ herein.
- D. Request for Extension or Enlargement of the Nonconforming Use of a Structure. The Board may authorize upon appeal in specific cases an extension of an existing nonconforming use which the Board is specifically authorized to pass on under the terms herein. Said extensions may be granted in an individual case upon a finding by the Board that:
1. The use is a nonconformance as defined in these regulations;
 2. The use is in full compliance with all requirements of these regulations applicable to nonconformances; and
 3. The extension of said use will not further injure a permitted use on adjacent property in the same zoning district.

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Pete Frisina advised that the interpretation of the extension or enlargement of a nonconforming use of a structure has not been used correctly. He explained the mission of the Ordinance was to

eventually bring all nonconforming structures into compliance. He stated there was a policy which stated a nonconforming structure could be enlarged provided there is no further encroachment to the existing setback of the nonconforming structure. He said he had discussed the issue with Attorney Scott Bennett who stated that enlargements of a nonconforming structure should not be permitted in the setback. He pointed out there was a provision for reconstruction of a nonconforming structure should the structure be razed or damaged by fire, flood, wind, or act of God; however, the reconstruction costs shall total less than 75 percent of the current fair market value of the structure for tax purposes which is under Article VII. He added maintenance and repair to a nonconforming structure shall be allowed.

The PC concurred enlargement of a nonconforming structure should not be allowed unless the enlargement complies with the setback requirements.

Pete Frisina reported the older churches in the County cannot meet current setback and buffer requirements for a church. He said according to the APA, there are certain kinds of nonconforming structures which can be categorized as those detrimental to health and safety and those detrimental to welfare. He pointed out welfare would be items such as setbacks, buffers, and landscaping. He added welfare could deal with such items as odors. He remarked criteria needs to be established to determine when structures must come into compliance or where do you draw the line when nothing on the site is in compliance.

Tim Thoms commented there should be an allowance for a “culturally significant group”.

Jim Graw suggested establishing a “historical group” and “non-historical group” with criteria for each.

Bill Beckwith concurred.

Pete Frisina asked how far you let a nonconforming church expand.

Chairman Powell replied it would be decided on a “case by case basis” and how much of a nuisance it is.

Pete Frisina asked if the ZBA should consider the expansion of any nonconforming structure.

Chairman Powell replied the ZBA should consider the expansion of a nonconforming structure.

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Tim Thoms cautioned that trying to bring nonconforming structures into compliance may leave empty structures sitting unused because of the expense of bringing the structure into compliance.

Pete Frisina reported Staff would like to review the nonconforming requirements in Article VII and the nonconforming requirements in Article IX to see if they need to be linked together instead of having to look in two (2) different articles. He added he would also like to establish criteria for a nonconforming structure. He said non-conformances may need to be a separate Article followed closely by the ZBA Article.

- E. Continuance of Nonconformance. The Board may allow a nonconformance to be re-established after discontinuance for six (6) consecutive months where it is deemed by the Board that:
 - 1. The design, construction, and character of the land, building, or structure is not suitable for uses permitted in the zoning district in which the nonconformance is situated; and
 - 2. Undue hardship to the property owner would result in not allowing the continuance of a nonconformance; and
 - 3. Adjacent property would not be unduly damaged by such continuance; and
 - 4. The use is to be identical to the prior nonconformance.
- F. Compliance with Standards. Where an application to the Board is initiated due to an existing violation of the Zoning Ordinance and said application is denied, the violation shall be required to be corrected within ten (10) calendar days of such denial or as specified by the Board if a greater time period is necessary. The maximum extension of the time shall not exceed ~~thirty (30)~~ 30 calendar days.
- G. Forms. Appeals, requests for variances, and requests for extensions or continuances of nonconformances shall be made on forms provided by the Zoning Administrator; and all information requested on the forms shall be provided by the appellant. Forms shall be filed with the Zoning Administrator along with the necessary fees incidental to the appeal. No form shall be accepted by the Zoning Administrator unless it contains all pertinent information and is accompanied by the required fee.

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ARTICLE X. SCHEDULE OF FEES

Fees. A schedule of fees shall be established from time to time by the Board of Commissioners. The schedule shall be kept in the office of the Zoning Administrator and shall be available to the public. All fees required by this ~~section~~ article shall be in addition to any other fees and charges required under other ordinances as enacted by the Board of Commissioners.

01/23/09 – BOC Retreat

09/17/09 – PC Wkshop (Parcel or Tract changed to Lot) (Chairman to Chairman) (Vice-Chairman to Vice-Chairman)

12/17/09 – PC Wkshop

ARTICLE XI.

POLICIES, PROCEDURES AND STANDARDS GOVERNING AMENDMENT ~~FAYETTE COUNTY PLANNING COMMISSION~~

11-1. Intent. The purpose of this Article is to describe and establish procedures for making changes to the Official Zoning Map (i.e., rezoning of properties) and amending the text of this Ordinance. Such actions require legislative approval by the Board of Commissioners in order to be enacted.

11-2. Technical Evaluation and Qualification of Properties.

- A. Every petition for a legislative change shall be subject to a technical evaluation. The evaluation shall be conducted by the ~~County Planner~~ Zoning Administrator who shall coordinate a review of the proposal with all appropriate departments, ~~sections~~ and public agencies. Following the evaluation, the ~~County Planner~~ Zoning Administrator shall prepare a report containing recommendations to be presented to the Planning Commission and the Board of Commissioners.

Chairman Powell suggested adding “County” prior to “departments”.

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- B. The Zoning Administrator shall distribute copies of applications for amendment to the Planning Commission and the Board of Commissioners. In addition, ~~certain departments listed below, and a representative of the Soils Conservation Service~~ the members of the Technical Review Committee (TRC) shall be supplied with copies of each application. Each department head or his/her designee shall return his or her

comments, in writing, to the Zoning Administrator at least seven (7) days prior to the Planning Commission hearing per the established deadline which is available in the Planning & Zoning Department. The Board of Education shall be supplied a copy of every residential application consisting of ten (10) or more lots. The following departments shall receive applications for comments:

Chairman Powell suggested deleting “established deadline which is available in the Planning and Zoning Department” and inserting “deadline established by the Planning and Zoning Department”.

1. ~~Department of Public Works (County Engineer);~~
2. ~~Department of Health;~~
3. ~~Fire Department; and~~
4. ~~Water System.~~

- C. Individual lots, lots, or lots affected by proposed rezonings which are initiated by a party other than the Board of Commissioners of Fayette County shall each be of sufficient size and shape to meet all requirements of this Ordinance. Combination or division of lots, in accordance with County regulations, shall be accomplished as a condition of approval prior to the approval of any permits or applications.

Chairman Powell suggested deleting “Individual lots, lots, or lots” and inserting “Any lot(s)”.

- D. A property which is improved with existing structures and which would become nonconforming within the zoning district for which the rezoning is sought may be considered for rezoning; however, the concept plan ~~must~~ shall illustrate an attempt by the applicant to meet, to the extent possible, all requirements herein, ~~and no subsequent use may be approved which would further a deficiency of required on-site parking.~~ Any new construction or improvements, including expansion of any existing structure, shall comply with the minimum requirements herein ~~and shall not be approved unless the parking requirements for the entire property can be met.~~

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Pete Frisina pointed out that this provision allows for a rezoning which would make the existing structure nonconforming. He asked if this provision should be deleted.

Robyn Wilson replied she was presently working with a gentlemen who was zoned A-R and was going to request R-78. She advised his existing home did not comply with the minimum house size of R-78; however, she would condition the rezoning petition that he would be required to construct

additional square feet to the existing house prior to the recordation of his Final Plat for three (3) single-family dwelling lots. She added the house complied with the required setbacks of R-78. She pointed out if this section was deleted from the Ordinance, he would be forced to construct the addition to his existing home to comply with the R-78 requirements prior to applying for the R-78 zoning district which did not seem right. She suggested Staff review this provision.

Pete Frisina concurred.

11-3. Public Hearings.

- A. Date, Place and Time. The Planning Commission shall from time to time establish a schedule of Planning Commission ~~and Board of Commissioner~~ public hearings, which shall include filing deadlines for submission of applications. The public hearings shall be conducted as follows:

Chairman Powell stated the Board of Commissioners was deleted in the first sentence; however, the Board of Commissioners was included in 2.b. He suggested relocating 2.b. to the Board of Commissioners section under 11-9.

Robyn Wilson suggested deleting the entire first sentence which would leave the time and date of the Planning Commission and the Board of Commissioners public hearings in the same location.

The PC concurred.

1. Place: Fayette County Administrative Complex
2. Time and Date:
 - a. Planning Commission: First Thursday, 7:00 p.m.
 - b. Board of Commissioners: Second and Fourth Thursdays, 7:00 p.m.

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Any changes from the standard schedule for public hearings will be published in the newspaper which carries legal advertisements for the County in compliance with the requirements for public notification (~~Section 11-11~~) as provided herein.

- B. Conduct of Hearing. Public hearings on amendments shall be conducted with ~~at least ten (10)~~ 15 minutes provided for the proponents and ~~at least ten (10)~~ 15 minutes provided for the opponents of an application for rezoning. *If necessary, the*

Chairman or Acting Chairman, may allocate an equal amount of additional minutes for the proponents and the opponents. An applicant may reserve part of ~~or~~ all of the allotted time for rebuttal.

Chairman Powell suggested inserting “both” prior to “the proponents and the opponents”.

Tim Thoms suggested deleting “Acting Chairman” and inserting “Vice-Chairman”.

1. Decisions: Decisions of the Planning Commission and Board of Commissioners on applications for rezoning shall be made subsequent to the public hearing.

Chairman Powell suggested deleting “Decisions of the Planning Commission” and inserting “Recommendations of the Planning Commission”. He also suggested inserting “the decision of the” prior to “Board of Commissioners”.

2. Minutes: The Minutes of any public hearing/workshop/meeting shall be maintained with the zoning decision entered thereon. The Minutes shall be kept as public records.

- 11-4. Initiation of Amendments. Applications to amend the text of this Ordinance may be initiated by the Planning Commission, the Board of Commissioners, or by a citizen of Fayette County. The Planning Commission, the Board of Commissioners, a property owner, or the authorized agent of a property owner may initiate an application to amend the official zoning map (rezone property). When an agent is authorized to act on behalf of an owner, such certificate of authorization shall be notarized on the rezoning application. All information and required fees ~~must~~ **shall** be received by the Zoning Administrator by the deadline date for filing.

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- 11-5. Limitation on Re-applying and Withdrawal. If the zoning decision of the Board of Commissioners is to deny a rezoning of property, then **an application for** the same property may not **be submitted nor** ~~again~~ be considered for rezoning until the expiration of at least six (6) months immediately following such denial. An application for a map amendment shall not be withdrawn by the applicant after the legal advertising as required herein except as provided in Sections 11-7 and 11-8 **herein.**

Chairman Powell suggested deleting “submitted” and inserting “re-submitted” and also deleting “nor”.

Jim Graw suggested deleting “such denial” and inserting “the date of denial”.

Pete Frisina pointed out that previously this section also included allowing consideration prior to six (6) months provided there was a four-fifths vote of the Board of Commissioners and this provision should be added.

11-6. “Writ of Certiorari” (Appeal). An applicant has 30 calendar days from the date of the Board of Commissioners rezoning decision to file a “Writ of Certiorari” (Appeal) with the Superior Court of Fayette County.

11-67. Application for Amendment. Any citizen filing an application to amend the text or the official zoning map may obtain an application from the Zoning Administrator. Applications to amend the text or the official zoning map ~~must~~ **shall** be submitted on forms provided by the Zoning Administrator.

11-8. Planning Commission Recommendation.

- A. The Planning Commission shall make a recommendation of approval, denial, table, or withdrawal without prejudice on each application. **An action to table shall include a justification of such action and a specific meeting date at which the application is to be reconsidered.**

If there is not a full board present at the public hearing, the Petitioner may request to table the petition to the **next** Planning Commission public hearing ~~the next month~~, provided the Petitioner requests to table the agenda item prior to the presentation.

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A new legal advertisement will not be required with an announcement to a specific meeting date if an application is tabled; however, the property will be reposted with new signage indicating the new public hearing dates.

In addition, the Planning Commission may recommend amendments to the applicant's request which would reduce the land area for which the application is made, change the zoning district requested to one which is less intense, or recommend conditions which may be deemed advisable so that the purpose of this

ordinance will be served and the public health, safety, and welfare secured.

- ~~C.B.~~ A report of the Planning Commission's decision shall be submitted to the Board of Commissioners. The report shall contain the decision of the Planning Commission, all grounds therefore, and shall be signed and approved by the Chairman or Vice-Chairman of the Planning Commission.

Chairman Powell suggested deleting "Planning Commission's decision" and inserting "Planning Commission's recommendation" and deleting "decision of the Planning Commission" and inserting "recommendation of the Planning Commission".

- ~~B.C.~~ If the Planning Commission fails to submit a report within ~~thirty (30)~~ 75 calendar days from the date of the acceptance of the completed amendment application, the application shall be deemed to have been approved.

11-9. Public Hearing Before the Board of Commissioners.

- A. After receipt of the Planning Commission's report and recommendation on the proposed amendment, the Board of Commissioners shall hold a public hearing. The Board of Commissioners may approve, deny, or table an application. An action to table shall include a justification of such action and a specific meeting date at which the application is to be reconsidered. A new legal advertisement will not be required with an announcement to a specific meeting date; however, the property will be reposted with new signage indicating the new public hearing dates.
- B. In addition, the Board of Commissioners may approve an amendment with a reduction in the land area requested, change the zoning district requested (as long as such change is to a less intense zoning district), or add or delete conditions of zoning which will enhance the health, safety and welfare of the County.

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- C. The Board of Commissioners may, by a majority vote of all members, allow an application to be withdrawn without prejudice with regards to the waiting period required by a denial.
- D. The decision of the Board of Commissioners shall be contained in a written report prepared by the Clerk of the Board of Commissioners. The report shall contain the decision of the Board of Commissioners, all grounds therefore, and shall be signed and approved by the Chairman or Vice-Chairman of the Board of Commissioners. The Clerk shall provide a copy of the report to the Zoning Administrator which copy

shall become a part of the application file and shall send one (1) copy to the applicant by certified mail.

11-10. Conditional Approval. Any application for an amendment may be approved subject to conditions which relate to the use, occupancy, or development regulations for the property contained in the petition. Conditions imposed on the property may only be more restrictive than the requirements of any zoning district and other applicable parts of this Ordinance as may apply to the property. The following policies shall apply:

- A. Controls Proposed by Applicant. An applicant may propose controls to be considered by the Planning Commission and the Board of Commissioners. Such proposed controls may include plans, limitations of use and occupancy, or more restrictive development standards than would otherwise be applied to the property.
 - 1. Such proposed controls may be eliminated or changed into conditions of approval as submitted, or they may be eliminated, modified, or extended.
 - 2. The Board may choose to incorporate, as conditions of approval, selected restrictions, or requirements which were not included in the request for controls submitted in the original application.
- B. Consent Not Required. Approval of applications subject to conditions may occur with or without the consent of the applicant.
- C. Conditions Shall be Permanent. All conditions imposed by action of the Board of Commissioners shall remain on the subject property regardless of changes in ownership.

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- D. Changes to Conditions. Conditions shall be changed only through the amendment process by which they were established or when expressly overridden by a State government authority taking precedence over the area of regulation.
- 11-11. Standards for Map Amendment (Rezoning) Evaluation. All proposed map amendments shall be evaluated with special emphasis being placed on the relationship of the proposal to the Land Use Plan and related development policies of Fayette County. The ~~County Planner~~ **Zoning Administrator** shall prepare a report for each proposed map amendment which shall recommend a course of action including recommended conditions, if any. The following factors shall be considered by the ~~County Planner~~ **Zoning Administrator**, the Planning

Commission and the Board of Commissioners when reviewing a request for rezoning:

- A. Whether the zoning proposal is in conformity with the Land Use Plan and policies contained therein;
- B. Whether the zoning proposal will adversely affect the existing use or usability of adjacent or nearby property;
- C. Whether the zoning proposal will result in a use which will or could cause an excessive or burdensome use of existing or planned streets, utilities, or schools;
- D. Whether there are other existing or changing conditions affecting the use and development of the property which give supporting grounds for either approval or disapproval of the zoning proposal.

11-12. Public Notification.

- A. Newspaper. Notice of scheduled hearings shall be published in the newspaper of general circulation within the County in which are carried the legal advertisements of the County.
 - 1. The notice shall be published at least seven (7) days prior to the public hearing before the Planning Commission, but not more than ~~forty-five (45)~~ **45 calendar days**, nor less than ~~fifteen (15)~~ **15 calendar** days prior to the public hearing before the Board of Commissioners. In the event that the time-frames above cannot be met with one **(1)** advertisement, the notice shall be published twice.

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- 2. The notice shall contain the dates of the public hearings before the Planning Commission and the Board of Commissioners.
 - 3. Public notification shall include at a minimum the time, date, place, ~~and~~ purpose of the hearing, location, boundary description, ~~and~~ area of the property, and the current and requested zoning classifications.
- B. Posting of Sign(s).
 - 1. A sign shall be posted **on property for which the rezoning is sought. One (1) sign is required for each** ~~along every~~ street frontage of **said** property ~~for~~

~~which rezoning is sought.~~ The sign shall be posted consistent with the requirements for newspaper notification.

2. Signs used for posting property shall be a minimum of ~~eighteen (18)~~ **18** inches by ~~eighteen (18)~~ **18** inches and shall indicate the application number, the time, date, place, ~~and~~ purpose of the hearings, and the current and requested zoning classifications.
3. A refundable sign deposit shall be required **for each sign** at the time of application for rezoning.

C. Applicant Notification.

1. Upon certification by the Zoning Administrator that an application is complete, a notice giving the date, time, and place of the public hearings shall be given by certified mail to the applicant.
2. The Clerk to the Board of Commissioners shall notify the applicant by mail of any action (including tabling of action) taken by the Board of Commissioners. All actions of the Board shall be deemed to be effective as of the date of the action.

11-13. Zoning Reversion. Within three (3) years of the date of rezoning, rezoned property shall be utilized for uses allowed in the new zoning district or substantial development shall be demonstrated toward such utilization. Failure to so utilize or demonstrate substantial

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development may subject the property to consideration for reversion to the previous zoning classification. In such event, public hearings shall ~~be held as~~ **follow the established procedures** for rezoning petitions **herein** and a final decision rendered by the Board of Commissioners.

11-14. Responsibilities of the Zoning Administrator. The Zoning Administrator shall have the following responsibilities associated with receiving and processing all amendment applications:

- A. Receive all applications and supporting information and collect all fees at the time of initial filing;

- B. Maintain a log of all applications;
- C. Return incomplete applications and all supporting information to the applicant upon determination that an application is incomplete with reasons for the determination;
- D. If the application is complete, issue a notice that lists the dates, times and places of all hearings that are scheduled for the application;
- E. Establish and maintain a file for each application which shall contain:
 - 1. Copies of all materials submitted by the applicant;
 - 2. Correspondence, records, reports and exhibits produced during processing;
 - 3. Minutes and all actions taken by the Planning Commission and the Board of Commissioners on an application; and
 - 4. All follow-up activities, if any, including re-filing of additional requests, copies of citations or violations and any other significant materials.
- ~~F. Prepare a Sketch Map, utilizing County Tax Maps, for all map changes (rezoning), which shall show the location and dimensions of the subject property of the petition, all properties within at least 1,000 feet of the subject property and the zoning districts thereon;~~

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Chairman Powell suggested not deleting the entire section but only delete “Sketch” and “utilizing County Tax Maps” from the provision.

- ~~G.F.~~ Transmit to the ~~County Planner and those specified in Section 11-2~~ appropriate departments within five (5) working days after the deadline for submissions, all materials to be evaluated ~~along with the Sketch Map~~;
- ~~H.G.~~ Schedule and provide notice for all public hearings, including the posting of the property, as required by ~~Sections 11-3 and 11-11~~ herein;
- ~~I.H.~~ Transmit the recommendation of the Planning Commission to the Board of Commissioners at least ~~seven (7)~~ 14 calendar days prior to the scheduled public hearing before the Board of Commissioners; and

~~1.1.~~ Update the official Zoning Map.

11-15. Planning Commission. The Planning Commission consists of that body of members appointed by the Board of Commissioners to carry out the directives of this and other ordinances, and to carry out any other duties which may from time to time be assigned to the Planning Commission by the Board of Commissioners.

A. Membership and Appointments.

1. The Planning Commission shall consist of five (5) members residing within the County who shall be appointed by the Board of Commissioners. The members of the Planning Commission shall ~~be drawn~~ reside ~~from~~ in the same districts used in the election of the Board of Commissioners.

2. Vacancies on the Planning Commission shall be filled by the member of the Board of Commissioners hailing from the district which has the vacancy. Prior to this requirement, whereby members of the Planning Commission shall be appointed from the same districts used in the election of the County Commissioners, members of the Planning Commission were required to reside in one (1) of five (5) different Planning Commission districts.

a. ~~The member of the Planning Commission from the district designated as Post 1 will now become the member from District 2.~~

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b. ~~The member of the Planning Commission from the district designated as Post 2 will now become the member from District 3.~~

e. ~~The member of the Planning Commission from the districts designated as Post 4 and Post 5 will now become the members from District 4 and District 5, respectively.~~

~~3.2.~~ None of the members shall hold any other public office except that one (1) member may also be a member of the Zoning Board of Appeals.

~~4.3.~~ ~~Removal~~ Termination of a member from the Planning Commission shall require a majority vote of the Board of Commissioners.

B. Term of Office.

1. The term of office for each member of the Planning Commission shall be three (3) years; ~~however, for appointment of the first board, two (2) members shall be appointed for three (3) years, two (2) members for two (2) years and one (1) for one (1) year.~~ It is the intent of this section that the terms be staggered *with no term limitation*.
2. A vacancy in the membership shall be filled for the unexpired term in the same manner as the initial appointment.
3. ~~If the Zoning Board of Appeals member ceases to serve on the Zoning Board of Appeals during the term of appointment to the Planning Commission, that member's term shall automatically terminate and the Board of Commissioners may name a member of the Zoning Board of Appeals to fill the unexpired term of the original appointee.~~

C. Officers; Rules and Procedures; Minutes.

1. The Planning Commission shall elect one of its members as Chairman and another as Vice-Chairman, each serving for one (1) year or until re-elected or a successor is elected. The Vice-Chairman shall act as Chairman in the Chairman's absence. The Planning Commission shall appoint a Secretary who shall be an employee of Fayette County.

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2. The Planning Commission shall have the authority to adopt rules of procedure. Meetings of the Planning Commission shall be held at the call of the Chairman and as scheduled.
3. The Planning Commission shall keep minutes of its proceedings, showing the vote of each member upon each question, or if they are absent or fail to vote, indicating such fact. The Planning Commission shall keep records of its examinations and other official actions all of which shall be immediately filed in the office of the Planning Commission (Zoning Administrator's Office) and shall be public record.

- D. Conflict of Interest. Any member of the Planning Commission shall be disqualified to act upon a matter before the Planning Commission with respect to property in which the member has an interest.

- E. Attendance. It shall be deemed cause for removal should any member of the Planning Commission fail, without proper reason, to attend three (3) consecutive meetings.

* * * * *

Chairman Powell asked if there was any further business.

Pete Frisina advised a Workshop/Public Meeting will be held following the January Public Hearing.

Hearing no further business, Bill Beckwith made a motion to adjourn the Public Meeting/Workshop. Al Gilbert seconded the motion. The motion unanimously passed 5-0. The Public Meeting/Workshop adjourned at 8:32 P.M.

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PLANNING COMMISSION
OF
FAYETTE COUNTY

ATTEST:

DOUG POWELL
CHAIRMAN

ROBYN S. WILSON
P.C. SECRETARY